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DEVELOPMENTS CONCERNING THE NATIONAL
EMERGENCY WITH RESPECT TO IRAQ

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A REPORT ON DEVELOPMENTS SINCE HIS LAST REPORT OF FEBRUARY 9, 1996, CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO IRAQ THAT WAS DECLARED IN EXECUTIVE ORDER NO. 12722 OF AUGUST 2, 1990, PURSUANT TO 50 U.S.C. 1641(c) AND 50 U.S.C. 1703(c)



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THE WHITE HOUSE,
Washington, August 14, 1996.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I hereby report to the Congress on the developments since my last report of February 9, 1996, concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 of August 2, 1990. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c).

Executive Order No. 12722 ordered the immediate blocking of all property and interests in property of the Government of Iraq (including the Central Bank of Iraq) then or thereafter located in the United States or within the possession or control of a U.S. person. That order also prohibited the importation into the United States of goods and services of Iraqi origin, as well as the exportation of goods, services, and technology from the United States to Iraq. The order prohibited travel-related transactions to or from Iraq and the performance of any contract in support of any industrial, commercial, or governmental project in Iraq. U.S. persons are also prohibited from granting or extending credit or loans to the Government of Iraq.

The foregoing prohibitions (as well as the blocking of Government of Iraq property) were continued and augmented on August 9, 1990, by Executive Order No. 12724, which was issued in order to align the sanctions imposed by the United States with United Nations Security Council Resolution 661 of August 6, 1990.

Executive Order No. 12817 was issued on October 21, 1992, to implement in the United States measures adopted in United Nations Security Council Resolution ("UNSCR") 778 of October 2, 1992. UNSCR 778 requires U.N. Member States to transfer to a U.N. escrow account any funds (up to \$200 million apiece) representing Iraqi oil sale proceeds paid by purchasers after the imposition of U.N. sanctions on Iraq, to finance Iraq's obligations for U.N. activities with respect to Iraq, such as expenses to verify Iraqi weapons destruction, and to provide humanitarian assistance in Iraq on a nonpartisan basis. A portion of the escrowed funds also funds the activities of the U.N. Compensation Commission in Geneva, which handles claims from victims of the Iraqi invasion and occupation of Kuwait. Member States also may make voluntary contributions to the account. The funds placed in the escrow account are to be returned, with interest, to the Member States that transferred them to the United Nations, as funds are received from future sales of Iraqi oil authorized by the U.N. Security Council. No

Member State is required to fund more than half of the total transfers or contributions to the escrow account.

This report discusses only matters concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 and matters relating to Executive Orders No. 12724 and 12817 (the "Executive Orders"). The report covers events from February 2, 1996, through August 1, 1996.

1. In April 1995, the U.N. Security Council adopted UNSCR 986 authorizing Iraq to export up to \$1 billion in petroleum and petroleum products per quarter for 6 months under U.N. supervision in order to finance the purchase of food, medicine, and other humanitarian supplies. This arrangement may be renewed by the Security Council for additional 6-month periods. UNSCR 986 includes arrangements to ensure equitable distribution of humanitarian goods purchased with UNSCR 986 oil revenues to all the people of Iraq. The resolution also provides for the payment of compensation to victims of Iraqi aggression and for the funding of other U.N. activities with respect to Iraq. On May 20, 1996, a memorandum of understanding was concluded between the Secretariat of the United Nations and the Government of Iraq agreeing on terms for implementing UNSCR 986. Further implementation procedures are being considered by the Iraq Sanctions Committee which is composed of members of the Security Council.

2. During the reporting period, there was one amendment to the Iraqi Sanctions Regulations (the "ISR"). On July 10, 1996, the Department of the Treasury's Office of Foreign Assets Control ("OFAC") amended the ISR to provide a general license authorizing U.S. persons to enter into executory contracts with the Government of Iraq for the purchase of Iraqi-origin petroleum and petroleum products, the sale of essential parts and equipment for the Kirkuk-Yumurtalik pipeline system, and the sale of humanitarian goods and services, with performance conditioned upon approval by the Office of Foreign Assets Control within the framework of United Nations Security Council Resolution 986 (1995). (61 Fed. Reg. 36627, July 12, 1996.) A copy of the amended Regulations is attached.

All executory contracts must contain terms requiring that all proceeds of oil purchases from the Government of Iraq, including the State Oil marketing organization, must be placed in the U.N. escrow account at Banque Nationale de Paris, New York (the "986 Escrow Account"), and all Iraqi payments for authorized sales of pipeline parts and equipment, humanitarian goods, and incidental transaction costs borne by Iraq will, upon approval by the UNSC committee established pursuant to UNSCR 661 ("the 661 Committee"), be paid or payable out of the 986 Escrow Account.

3. Investigations of possible violations of the Iraqi sanctions continue to be pursued and appropriate enforcement actions taken. Several cases from prior reporting periods are continuing and recent additional allegations have been referred by OFAC to the U.S. Customs Service for investigation. Several OFAC civil penalty proceedings are pending.

Investigation also continues into the roles played by various individuals and firms outside Iraq in the Iraqi government procurement network. These investigations may lead to additions to

OFAC's listing of individuals and organizations determined to be Specially Designated Nationals ("SDNs") of the Government of Iraq.

4. Pursuant to Executive Order No. 12817 implementing UNSCR 778, on October 28, 1992, OFAC directed the Federal Reserve Bank of New York to establish a blocked account for receipt of certain post-August 6, 1990, Iraqi oil sales proceeds, and to hold, invest, and transfer these funds as required by the Order. Cumulative transfers from the blocked Federal Reserve Bank of New York account since issuance of Executive Order No. 12817 amounted to \$200 million as of December 21, 1995, fully satisfying the United States' commitment to match the payments of other Member States from blocked Iraqi oil payments, and its obligation pursuant to UNSCR 778.

5. The Office of Foreign Assets Control has issued a total of 630 specific licenses regarding transactions pertaining to Iraq or Iraqi assets since August 1990. Licenses have been issued for transactions such as the filing of legal actions against Iraqi governmental entities, legal representation of Iraq, and the exportation to Iraq of donated medicine, medical supplies, and food intended for humanitarian relief purposes, the execution of powers of attorney relating to the administration of personal assets and decedents' estates in Iraq and the protection of preexistent intellectual property rights in Iraq. Since my last report, 12 specific licenses have been issued.

6. The expenses incurred by the Federal Government in the 6-month period from February 2, 1996, through August 1, 1996, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Iraq are reported to be about \$1 million, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the office of Foreign Assets Control, the U.S. Customs Service, the Office of the Under Secretary for Enforcement, and the Office of the General Counsel), the Department of State (particularly the Bureau of Economic and Business Affairs, the Bureau of Near Eastern Affairs, the Bureau of International Organization Affairs, the Bureau of Political-Military Affairs, the U.S. Mission to the United Nations, and the Office of the Legal Advisor), and the Department of Transportation (particularly the U.S. Coast Guard).

7. The United States imposed economic sanctions on Iraq in response to Iraq's illegal invasion and occupation of Kuwait, a clear act of brutal aggression. The United States, together with the international community, is maintaining economic sanctions against Iraq because the Iraqi regime has failed to comply fully with United Nations Security Council resolutions. Security Council resolutions on Iraq call for the elimination of Iraqi weapons of mass destruction, Iraqi recognition of Kuwait and the inviolability of the Iraq-Kuwait boundary, the release of Kuwaiti and other third-country Nationals, compensation for victims of Iraqi aggression, long-term monitoring of weapons of mass destruction capabilities, the return of Kuwaiti assets stolen during Iraq's illegal occupation of Kuwait, renunciation of terrorism, an end to internal Iraqi repression of its own civilian population, and the facilitation

of access of international relief organizations to all those in need in all parts of Iraq. Six years after the invasion, a pattern of defiance persists: a refusal to account for missing Kuwaiti detainees; failure to return Kuwaiti property worth millions of dollars, including military equipment that was used by Iraq in its movement of troops to the Kuwaiti border in October 1994; sponsorship of assassinations in Lebanon and in northern Iraq; incomplete declarations to weapons inspectors and refusal of unimpeded access; and ongoing widespread human rights violations. As a result, the U.N. sanctions remain in place; the United States will continue to enforce those sanctions under domestic authority.

The Baghdad government continues to violate basic human rights of its own citizens through systematic repression of minorities and denial of humanitarian assistance. The Government of Iraq has repeatedly said it will not be bound by UNSC Resolution 688. For nearly 5 years, Baghdad has maintained a blockade of food, medicine, and other humanitarian supplies against northern Iraq. The Iraqi military routinely harasses residents of the north, and has attempted to "Arabize" the Kurdish, Turcomen, and Assyrian areas in the north. Iraq has not relented in its artillery attacks against civilian population centers in the south, or in its burning and draining operations in the southern marshes, which have forced thousands to flee to neighboring States.

The policies and actions of the Saddam Hussein regime continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, as well as to regional peace and security. The U.N. resolutions affirm that the Security Council must be assured of Iraq's peaceful intentions in judging its compliance with sanctions. Because of Iraq's failure to comply fully with these resolutions, the United States will continue to apply economic sanctions to deter it from threatening peace and stability in the region.

Sincerely,

WILLIAM J. CLINTON.

DEPARTMENT OF THE TREASURY**Office of Foreign Assets Control****31 CFR Part 575****Iraqi Sanctions Regulations; Executory Contracts with the Government of Iraq**

AGENCY: Office of Foreign Assets Control, Treasury

ACTION: Final rule; amendment.

SUMMARY: This final rule amends the Iraqi Sanctions Regulations to provide a general license authorizing U.S. persons to enter into executory contracts with the Government of Iraq for the purchase of Iraqi-origin petroleum and petroleum products, the sale of essential parts and equipment for the Kirkuk-Yumurtalik pipeline system, and the sale of humanitarian goods, with performance conditioned upon approval by the Office of Foreign Assets Control within the framework of United Nations Security Council Resolution 986 (1995).

EFFECTIVE DATE: July 10, 1996

FOR FURTHER INFORMATION CONTACT:

Steven I. Pinter, Chief, Licensing Division, Tel.: 202/622-2480, or William B. Hoffman, Chief Counsel, Tel.: 202/622-2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:**Electronic and Facsimile Availability**

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Background

On April 14, 1995, the United Nations Security Council (the "UNSC") adopted Resolution 986, which creates a framework, subject to agreement of the Government of Iraq, that would permit the Government of Iraq to sell \$2 billion worth of petroleum and petroleum products over a six-month period, with all proceeds placed in a UN escrow account for designated uses. On May 20, 1996, a Memorandum of Understanding Between the Secretariat of the United Nations and the Government of Iraq on the Implementation of Security Council Resolution 986 (1995) (the "Memorandum of Understanding") was signed by representatives of the Government of Iraq and the United Nations (the "UN"). The Memorandum of Understanding contains agreements preparatory to implementation of Resolution 986. A portion of the proceeds in the escrow account will be available for Iraq's purchase of medicine, health supplies, foodstuffs, and materials and supplies for essential civilian needs, to be specified in a list prepared by Iraq and submitted to and approved by the UN Secretary-General. At the UN level, this program will be administered by the UNSC Committee established pursuant to UNSC Resolution 661 (the "661 Committee"), which will establish guidelines concerning procedures for permitted Iraqi purchases and sales. Within the United States, the Treasury Department's Office of Foreign Assets Control ("OFAC"), in consultation with the Department of State, will implement UNSC Resolution 986. No direct financial transactions with the Government of Iraq are permitted.

This final rule amends the Iraqi Sanctions Regulations, 31 CFR part 575 (the "Regulations"), to provide a general license in new § 575.522, authorizing U.S. persons to enter into executory contracts with the Government of Iraq for the purchases of Iraqi-origin

petroleum and petroleum products, and the sales of humanitarian goods and pipeline parts and equipment permitted pursuant to UNSC Resolution 986, provided that no contract with the Government of Iraq can be performed except as further authorized by OFAC. New §§ 575.323, 575.324, 575.325, and 575.326, provide definitions for the terms "661 Committee," "UNSC Resolution 986," "986 Escrow Account," and "executory contract."

All executory contracts must contain terms requiring that all proceeds of oil purchases from the Government of Iraq, including SOMCO, must be placed in the UN escrow account at Banque Nationale de Paris, New York (the "986 Escrow Account"), and all Iraqi payment for sales of authorized pipeline parts and equipment, humanitarian goods, and incidental transaction costs borne by Iraq will, upon 661 Committee approval, be paid or payable out of the 986 Escrow Account.

The Office of Foreign Assets Control will provide further guidance on licensing policy for purchases of Iraqi-origin petroleum and petroleum products, and sales to Iraq of pipeline parts and equipment essential to the safe operation of the Kirkuk-Yumurtalik pipeline and of humanitarian goods, once the 661 Committee has provided guidance on its requirements for contract approval.

Because the Regulations involve a foreign affairs function, Executive Order 12866 and the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601-612, does not apply.

There is no collection of information contained herein.

List of Subjects in 31 CFR Part 575

Administrative practice and procedure, Banks, banking, Blocking of assets, Exports, Foreign trade, Humanitarian aid, Imports, Iraq, Oil imports, Penalties, Petroleum, Petroleum products, Reporting and recordkeeping requirements, Specially designated nationals, Travel restrictions.

For the reasons set forth in the preamble, 31 CFR part 575 is amended as follows:

PART 575—IRAQI SANCTIONS REGULATIONS

1. The authority citation for part 575 continues to read as follows:

Authority: 50 U.S.C. 1701-1706; 50 U.S.C. 1801-1851; 22 U.S.C. 287c; Pub. L. 101-513, 104 Stat. 2047-55 (50 U.S.C. 1701 Note); 3 U.S.C. 301; E.O. 12722, 55 FR 31803, 3 CFR, 1990 Comp., p. 294; E.O. 12724, 55 FR 33089, 3 CFR, 1992 Comp., p. 317.

Subpart C—General Definitions

2. Section 575.323 is added to subpart C to read as follows:

§ 575.323 661 Committee.

The term 661 Committee means the Security Council Committee established by UNSC Resolution 661, and persons acting for or on behalf of the Committee under its specific delegation of authority for the relevant matter or category of activity, including the overseers appointed by the UN Secretary-General to examine and approve agreements for purchases of petroleum and petroleum products from the Government of Iraq pursuant to UNSC Resolution 986 (1995).

3. Section 575.324 is added to subpart C to read as follows:

§ 575.324 UNSC Resolution 986.

The term UNSC Resolution 986 means United Nations Security Council Resolution 986, adopted April 14, 1995.

4. Section 575.325 is added to subpart C to read as follows:

§ 575.325 986 Escrow Account.

The term 986 Escrow Account means the escrow account established by the Secretary-General of the United Nations pursuant to paragraph 7 of UNSC Resolution 986.

5. Section 575.326 is added to subpart C to read as follows:

§ 575.326 Executory contract.

The term executory contract means a contract which cannot be performed according to its terms until a stated condition has been fulfilled, such as a contract which requires the approval of a regulatory body before the contracting parties may begin performance.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

6. Section 575.522 is added to subpart E to read as follows:

§ 575.522 Executory contracts with the Government of Iraq for trade in petroleum, pipeline parts and equipment, and humanitarian goods authorized.

(a) United States persons are authorized to enter into executory contracts with the Government of Iraq for the following transactions, the performance of which (including any preparatory activities, payments or deposits related to such executory contracts) is contingent upon the prior authorization of the Office of Foreign Assets Control in or pursuant to this part:

(1) The purchase and exportation from Iraq of Iraqi-origin petroleum and petroleum products;

(2) The trading, importation, exportation, or other dealings in or related to Iraqi-origin petroleum and petroleum products outside Iraq;

(3) The sale and exportation to Iraq of parts and equipment that are essential for the safe operation of the Kirkuk-Yumurtalik pipeline system in Iraq; and

(4) The sale and exportation to Iraq of medicines, health supplies, foodstuffs, and materials and supplies for essential civilian needs.

(b) The authorization contained in paragraph (a) of this section applies only to executory contracts meeting both of the following conditions:

(1) The executory contracts, including all related financing, insurance, transportation, delivery, and other incidental contracts, are consistent with all requirements of UNSC Resolution 986, other applicable Security Council resolutions, the May 20, 1996 Memorandum of Understanding Between the Secretariat of the United Nations and the Government of Iraq on the Implementation of Security Council Resolution 986 (1995), and applicable guidance issued by the 661 Committee; and

(2) The executory contracts make any performance involving the exportation, reexportation, transfer or supply of any goods, technology or services that are subject to license application requirements of another Federal agency contingent upon the prior authorization of that agency. See § 575.101(b).

(c) Nothing in this section authorizes any transaction related to a United States person's travel to Iraq or activity

within Iraq, or any debt to an account blocked pursuant to this part.

(d) Note: U.S. passports must be validated by the U.S. Department of State for travel to Iraq.

(e) Attention is drawn to the recordkeeping and retention requirements of § 575.601.

Dated: July 9, 1996.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: July 9, 1996.

James E. Johnson,

Assistant Secretary for Enforcement.

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